



# *Australian Education Union*

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Our Ref: PB:PM

Ms Pru Goward  
Sex Discrimination Commissioner  
Human Rights and Equal Opportunity Commission  
GPO Box 5218  
Sydney, NSW, 2001.

17<sup>th</sup> October, 2005

Dear Commissioner,

**Re: AEU Submission to the Human Rights and Equal Opportunity Commission  
Inquiry into  
"Striking the Balance – women, men, work and family."**

Attached, in electronic format, please find the Australian Education Union (AEU) Paid Work and Family Responsibilities Submission .

We would welcome the opportunity of furthering our response in person.

Should you have any inquiries regarding this submission, please contact Catherine Davis, AEU Federal Women's Officer in the first instance, on (03) 9693 1800.

Yours sincerely

A handwritten signature in black ink that reads "Patricia Byrne". The signature is written in a cursive style.

PATRICIA BYRNE  
Federal President



**Submission to the  
Human Rights and Equal Opportunity  
Commission's**

**INQUIRY INTO PAID WORK AND FAMILY  
RESPONSIBILITIES:  
“STRIKING THE BALANCE –  
women, men, work and family”**

**October 2005**

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## **Executive Summary**

The Australian Education Union (AEU) has a membership of over 165,000 educators who work in public schools, colleges, early childhood and vocational settings in all states and territories of Australia. Members include teachers and allied educational staff, principals and administrators mainly in government school and TAFE systems.

The AEU is committed to finding better ways to assist employees balance paid work and family commitments.

About 70 per cent of the Australian Education Union's membership are women and hence the union's collective bargaining priorities have ensured that a variety of contemporary work/family provisions have been available to education workers.

The AEU acknowledges that the gendered divisions of care, as they stand, impact women disproportionately and for the sake of our members and our firm belief in gender equity principles, bargaining for better work/family balance will continue to be a priority for the union.

The AEU therefore expresses its strong opposition to any changes to Australia's industrial relations system which would reduce unions' right to bargain for family friendly provisions, or the right to have those provisions regulated through awards and collective agreements.

Though there is still a long way to ensuring all workers have access to appropriate measures to balance paid work and caring, to date collective bargaining has proven the most successful way to support parents and carers who return to work. Provision across a workforce for entitlements and flexibilities which individual workers may only require intermittently or for limited periods of their working life is most sensibly achieved on a collective basis. Removing or attacking the rights of unions to bargain collectively for better work/family balance, will do a great disservice to working families and will be to the detriment of Australia's productivity and prosperity.

Within the scope of the Federal Government's proposed workplace changes, the AEU is greatly concerned that not only will the work and family conditions achieved through collective bargaining be reduced and undermined by Australian Workplace Agreements (AWAs), but that inequity will be exacerbated by:

- reduced minimum wages;
- increased gender pay inequity through performance management and minimum wage structures; and
- workplace harassment and discrimination resulting from the removal of 'unfair dismissal' laws. The implications of these changes pose real concerns to the AEU, particularly regarding women's employment and hence access to adequate and real fertility/family management choices.

The working conditions of workers, particularly women, employed on individual contracts now, give a reasonable indication that predictions of increased inequality and decreased work and family balance are legitimate.

Therefore, any inquiry which aims to explore and improve paid work and family balance in Australia must begin with an outright rejection of the Federal Government's proposed workplace changes. In doing so the HREOC inquiry should:

- be mindful of and begin monitoring the loss of family friendly conditions under the proposed new workplace laws;
- give careful attention to the differences between the family provisions for workers in middle to upper management levels as compared to the bulk of the workforce; and
- anticipate the effects of losing the ability to nationally advance family friendly conditions via traditional means, such as AIRC test cases.

There are, of course, other areas of Federal Government policies such as the incongruence between the 'Welfare to Work' announcements and the current childcare and family tax benefits which, in the AEU's opinion, are contributing to the disincentives for starting families and the current imbalances around working families' choices.

Families do carefully consider their care and work options and often, where work hours need to be reduced in order to meet care responsibilities, rates of pay become the determining factor. That is, rather than the gender of the carer, it's the lowest paid of partnered employees who reduces their hours – more often meaning women become the carers simply due to the current pay inequity which assigns women lesser pay than their male partners. In the case of sole parents, the more common care scenarios leave women with little choice but to forego their limited pay, (or remain on Government income support) due to rising care costs.

Moreover, the gender segregation in the workforce that leads to women assuming unpaid care roles is further encouraged by current (casualised) workplace cultures offering employment insecurity as the trade off for flexible hours – neither are conducive to supporting caring needs.

The particular perspective the AEU brings to discussions around flexible work options for caring needs is not only around the comprehensive conditions achieved for teachers in public education systems but also to illustrate the discrepancy between the conditions of teachers and other education workers, and between policy and practice. In reference to HREOC's concerns for shifting the care roles and unpaid work between men and women however, the AEU raises its concerns regarding attempts to reduce teachers' ability to address traditional gender roles and gender construction in school curriculum, and to instead impose policies which re-enforce/re-establish traditional gender roles.

The AEU commends the broad scope of the HREOC discussion paper and inquiry process. It is the hope of the AEU that HREOC's recommendations following the inquiry are given due weight and implementation by governments.

## Introduction

Balancing work and family has not been a nationally acknowledged issue in the past because the labour market has been built around the male breadwinner model and the 8 hour day.

With the increased irregularity of hours, (driven by work intensification, casualisation and globalised markets) and more women participating in the workforce, (due to income necessity and greater opportunity) the task of caring and of finding family time has become a juggling act.

Tensions between time and money are at the heart of the current imbalance, so government and workplace policies need to focus on the affordability of care, the necessity of a liveable income (including through equitable tax and social benefits) and the availability of employee initiated flexibility so people can satisfy work commitments but also be available, should family needs become pressing.

The AEU again commends the broad scope of the HREOC discussion paper and inquiry process, as more recent work and family inquiries appear to have been too confined to income and leave rather than the cultural changes, (at personal and workplace policy levels), necessary to support *real* care choices.

The AEU also commends HREOC for acknowledging the role of unions in advancing flexible work options through collective bargaining, and the efforts to date by HREOC in consulting unions throughout the Inquiry process.

The AEU has previously stated that while the Federal Government has been slow to act on the issues of workplace flexibilities for parents, (e.g. a national paid maternity leave scheme) that this justifies one aspect of our strong opposition to industrial relations changes system as collective bargaining has clearly proven the most successful way to support working carers.

The policy response to balancing work and family must be based on the recognition that workers move through a variety of family circumstances over their working lives, and must encompass the full variety of family responsibilities which workers experience.

Fundamentally, balancing work and family is an issue for all working people, regardless of their current family or employment circumstances. All people have the right to working conditions which give them genuine choices in relation to family-related decisions, and which enable workers with family responsibilities to participate fully in the workforce.

With an aging workforce, and a decreased fertility rate the caring needs of millions of Australians will depend on workers' availability. The gender distribution of caring and family responsibilities means that women's employment opportunities and pay equity must be addressed. Caring responsibilities for generations of Australians must be *valued* and work (whether paid or unpaid) must be more *equally* shared amongst men and women.

It is also important that provisions which facilitate the development of such "family-friendly" work environments are understood to be in the interests of all workers, and not in any way a matter of "special treatment" for those who, at any particular point in time, are carers.

Similarly, provisions which facilitate the balancing of work and family responsibilities should not reduce or undermine already established entitlements such as sick leave, or employment security.

Existing entitlements have been established in answer to particular workplace issues, and each have their own work to do. It is not reasonable that workers with young children or other family dependents should, by virtue of meeting their family responsibilities, be expected to sacrifice other entitlements which workers without those family responsibilities receive in full.

Comprehensive leave provisions (taking into account the diversity of Australian family structures), flexible or temporarily adjusted hours, part-time to full-time (and vice versa) conversions, job share opportunities (including in promotions positions), workload reduction, pay parity for part-time employees, and increased access to job security, are some of the avenues through which the AEU has successfully advanced better work/family balance in education intuitions over the last few decades. We recommend these initiatives as models for this inquiry to consider.



However, essentially changes in the culture of a workplace – making it clear to employees that taking up flexible work options is encouraged and will not affect job standing/career progression – are important moves toward reducing stress, increasing productivity, increasing career satisfaction and retention of employees; and are fundamental to achieving family friendly workplaces.

Many AEU members working in early childhood settings, as allied staff in schools, as school and TAFE casual employees and in some school promotion positions, do not have access to the raft of flexible work options they should. Therefore, the AEU recommends national approaches to work and family flexibilities must be comprehensive and equally accessible for all Australian workers.

Finally, the AEU notes that Australia is signatory to a number of international conventions and treaties, which require us as a nation to establish a regulatory system which meets the needs of workers with family responsibilities, ensures a reasonable opportunity to balance the needs of work and family, and provides for the rights of children. In this context, the AEU urges the Federal Government to work closely with State and Territory governments and with social partners such as trade unions and employer associations to implement a coherent and effective set of policies and regulation to implement our international obligations in all jurisdictions and at all levels.

There *are* workplaces initiating better work/family practices and there are countries who have successfully implemented flexible work schemes, which demonstrate that a better balance between work and family responsibilities can be achieved without any detriment to the economy, but rather providing a boost to it.

The Federal Government must pay careful attention to the proposals put in this and other recent work/family and paid maternity leave inquiries. The cultural, financial, industrial and political changes necessary in Australia to foster a work family balance should be seen as monumental yet feasible, as they are absolutely essential to the equity and sustainability of Australia's future. Gradual policy change is no longer sufficient.

## Family Friendly Conditions

### Contemporary Experiences and Inequity

There is still a long way towards ensuring all workers have access to appropriate measures to balance paid work and caring. It is widely acknowledged that, via collective bargaining, public sector workers can access a better raft of family flexible working conditions than do workers in many other industries, and particularly casual and low paid workers.

It must also be acknowledged that once managerial level workers are removed from the picture, the majority of working Australian's have only basic family "flexibilities."

The ACTU's recent Work and Family Test Case which it took to the Australian Industrial Relations Commission (AIRC) over 2003 and 2004, highlighted that there was still significant room to move, in order to bring the 1.6 million employees, (who are dependent upon awards to set their wages), and the many more who have their conditions underpinned by awards, anywhere close to the best work and family flexibilities offered.

The Commission heard uncontested evidence that:

- Up to 47 per cent of the workforce has caring responsibilities;
- More mothers are returning to work with younger children than ever before. In 1979 when maternity leave was introduced very few mothers returned to work before their child was at school. Today 35 per cent of mothers have returned to work by the time their child is 12 months, and about a half of mothers are back at work by the time the child is 2 years old;
- Changes to labour force and families, including increased dual income and sole parent families mean that most children live in households where all the adults work; and
- Parents of young children face extreme time pressure, particularly mothers of children under five years who are working full time, and this has a negative impact on family wellbeing, including children's wellbeing. (ACTU, 8/08/2005)

It therefore made a decision resulting in new minimum standards including:

- The right for employees to request up to 24 months unpaid parental leave after the birth of a child. This represents a doubling of the current 12 month entitlement.
- The right for employees to request part-time work on their return to work from parental leave and before their children are at school.
- A new Personal Leave entitlement that allows up to ten days of paid leave a year for the purpose of caring for family members or for family emergencies – double the current five day provision.
- A new right for all employees, including casuals, to take up to two days unpaid leave for family emergencies on each occasion such an emergency should arise.
- A duty on employers to not unreasonably refuse an employee's request for extended parental leave or return to work part-time.

However, without maintaining the AIRC's current powers, unions are incredibly concerned about the capacity to hold onto these new family friendly conditions, and the loss of such conditions (to the majority of already vulnerable workers) as a result of new workplace laws, which promote AWAs.

ACTU President Sharan Burrow recently told the House of Representatives' Balancing Work and Family Inquiry that even under the current industrial relations laws 93% of employees in the private sector who are on individual contracts (AWAs) have no additional family-friendly rights for workers than those already in awards. (Burrow, 03/08/2005)

Burrow cited a recent report by the Department of Employment and Workplace Relations confirming this trend, showing that of all individual contracts:

- Less than one in twelve (8%) provide paid maternity leave.
- Only one in twenty (5%) provide paid paternity leave.
- One in twenty-five people (4%) provide unpaid 'purchased' leave such as extra leave during school holidays.

Working parents not only have less access to family leave if they are on individual contracts, they also have less time for family life because they are working longer hours. Around one in three (32%) people on individual contracts are working more hours than they did two years prior. (Burrow, 03/08/2005)

## Future Inequity: New Workplace Environment

Australia is being lead from a workplace relations system which enabled unions, on behalf of working people, to advance work and family balance collectively through agreement making and Commission test cases, to one where employees are left to negotiate conditions alone. Even the former system cultivated discrepancies between higher income earners' conditions, public sector union members' conditions, award minimums and between men and women on individual contracts; the inequities of the future system therefore aren't difficult to envisage.

Individual contracts are clearly hostile to family life. And they will only get worse when the Government abolishes the 'no disadvantage test' that benchmarks them against awards.

The reality is that room for improvement around work and family balance on any mass scale in the future seems unlikely, due to the diminished role of the AIRC. But not only are advancements now difficult, those gains made in the past are under threat of being lost.

The ACTU has made it clear that "the recent Work and Family Test Case highlighted the gap left by the Howard Government's plan to decimate the role of the AIRC in setting minimum employment standards. With few exceptions, claims to improve family leave in the minimum safety net have been opposed by the employer groups and the Federal Coalition Government.

“Conditions that are taken for granted, maternity leave (1979), parental leave (1990) and carers leave (1994/5) were awarded by the AIRC through the arbitration system. And while the Commission’s decision will be incorporated into awards, the impact of this on the actual job conditions of employees may be short lived, as Minister Andrew has said that awards will be adjusted to meet his Australian Fair Pay and Conditions Standards.

“Personal/carers leave and parental leave will be regulated by legislation. However the Government has yet to outline any detail regarding new minimum conditions in these areas, and the ACTU calls on the Government to ensure any improvements awarded by the AIRC ...should form the legislated minimum standard.

The Government’s preference for individual contracts (AWAs) is likely to undermine any gains from today, as individual contracts (AWAs) typically offer few family-friendly working arrangements.” (ACTU, 8/08/2005)

Within the scope of the Federal Government’s proposed workplace changes, the AEU is also greatly concerned that not only will the work and family conditions achieved through collective bargaining be reduced and undermined by Australian Workplace Agreements (AWAs), but that inequity will be exacerbated by:

- reduced minimum wages;
- increased gender pay inequity through performance management and minimum wage structures; and
- workplace harassment and discrimination resulting from the removal of ‘unfair dismissal’ laws. The implications of these changes pose real concerns to the AEU, particularly regarding women’s employment and hence access adequate and real fertility/family management choices.

The working conditions of workers, particularly women, employed on individual contracts now, give a reasonable indication that predictions of increased inequality and decreased work and family balance are legitimate.

Currently, the people most likely to use any family leave are the least likely to get any via an AWA, with 14 per cent more men than women having access to any family leave arrangement in their individual contract. This not only shows that AWAs are not conducive to healthy working families, but it shows how men's bargaining power is still greater than women's on an individual basis.

The Department for Employment and Workplace Relations' and ABS' data shows that women on AWAs earn 11 per cent less per hour than women on collective agreements. Furthermore, the gender pay gap between men and women is 10 per cent greater under AWAs than it is under collective agreements. (ABS, Cat 6306.0, 2004).

Therefore the lower incomes of women under new workplace laws will increase rather than decrease the opportunities for families to share the caring load, if maximising income continues to be necessary. (ABS, Cat 6306.0, 2004).

With women more likely to take on care roles, their ability to do so whilst in part-time paid employment is again made more difficult with the increasing prevalence of AWAs, as they do take away people's basic entitlements:

- there is no provision for penalty rates in more than half (54 per cent) of AWAs;
- no actual leave in one in three (34 per cent) AWAs, and
- no sick leave in one in four (28 per cent) AWAs. (DEWR, 2004)

Therefore, any inquiry which aims to explore and improve paid work and family balance in Australia must begin with an outright rejection of the Federal Government's proposed workplace changes. In doing so the HREOC inquiry should:

- be mindful of and begin monitoring the loss of family friendly conditions under the proposed new workplace laws;
- give careful attention to the differences between the family provisions for workers in middle to upper management levels as compared to the bulk of the workforce; and
- should anticipate the effects of losing the ability to nationally advance family friendly conditions via traditional means such as AIRC test cases.

## **Recommendations**

1. That HREOC leave open the opportunity for further submissions to this inquiry, following the release of the Federal Government's new Industrial Relations laws.
2. That HREOC and other Government departments/agencies should publicly monitor the loss of family friendly working conditions (through AWAs, and minimum conditions) following the passing of new Federal Industrial Relations laws, and to also monitor the new laws' compliance (or otherwise) with ILO conventions.

## **Income and Gender Still Matters**

The growing majority of dual income families can indicate two things: that families can no longer rely on a single income to satisfy the rising costs of families, and/or that women's attachment to the workforce is still an important and valued display of economic independence. As this submission later discusses the costs of care and families, it is obvious however that the "choice" regarding whose work is reduced when care needs arise, is mostly based on maximising and maintaining family income.

However, when coupled with the deep seated pay inequity between men and women in Australia, the gendered impact of choosing income as the defining factor in care responsibilities becomes clear – that is, women undertake the bulk of unpaid domestic and care labour.

The continued erosion of pay equity, by new workplace laws enabling individual employees to negotiate vastly different salaries via AWAs, and based solely on their power to negotiate their worth, will further exacerbate already unfair gendered divisions of work and care.

For women in public education systems, not only are they already affected by the fact that sectors dominated by women traditionally have comparatively lower pay and status, but will now have the prospect of gender pay inequity *within* the public education sector if AWAs combine with performance pay systems, leading to greater numbers of men being 'rewarded' than women. As it is already the case that more men are in promotions positions than women, and reach higher positions more quickly, so it is not an unreasonable prediction that gender pay inequity in education will result in many AEU members' work and family choices being further limited.

"Striking the Balance" sufficiently traverses the notion of long hours, pay inequity and men's and women's preferred paid work choices interfering with equitable care arrangements. Our discussions regarding the costs of care, within this submission serve to legitimise the reliance families have on maximising income by their care choices, which nevertheless shows why increasing Government's income support to working parents is not only a fundamental work and family support measure but an essential gender equity one.



## **Equity in Paid and Unpaid Work**

The specific gap in male and female earnings, particularly when women are forced to work part-time, highlights the disincentive to remain in the paid work, while care cost significantly reduce take-home pay. So while women work part-time to boost families' incomes and balance care, part time pay rates punish them for seeking part-time employment, and on top of that, having casual status removes their rights and conditions that would make balancing family more possible.

The Victorian Pay Equity Inquiry found that while “the gender pay gap for part-time employees is considerably lower than for full-time employees (i.e. 6.1% for total hourly earnings), this is attributable to the fact that the overwhelming proportion of part-time workers are women – almost 72%. Data presented by URCOT also reveals a decline in the hourly earnings for part-time employment relative to full-time employment since 1986, in the order of 2.1 percentage points for male employees and 8.4 percentage points for female employees.” (Whelan et al, 2005, p3)

And this report acknowledges that while it is arguable that at various times in their working lives women choose to engage in casual and/or part-time employment in order to accommodate their family responsibilities, “it is equally the case that factors such as the availability and affordability of childcare and inflexible working arrangements associated with on-going full-time jobs limit the options available to working mothers.” (Whelan et al, 2005, p4).

The Inquiry's finding of most significance to the AEU, is how “feminised” occupations, like teaching, (and their examples, childcare and retail) are also affected by gender pay inequity due to the segregation of the workforce and the value placed on such “feminised” industries. Despite the much talked of ‘male teacher crisis’, it is no surprise to the AEU that pay and status, the very thing that attracts people to a profession, is lower when society dubs the industry ‘women's work’. For carers in the education industry, particularly in part-time work, this inequity is indeed felt.

‘Striking the Balance’ also gives due attention to the issue of gendered divisions of domestic unpaid labor. The AEU believes that this has been a fundamental omission, in many previous community discussions around work and family, as they have more often centered around paid work and Government financial assistance. However, the domestic front presents the more sensitive dilemma of unpaid labor, and of caring roles, both of which are social pressures which become economic considerations for families.

The importance of alleviating financial barriers for families is equally about culture change which enables better domestic relationships between partners.

The Security 4 Women survey identified these tensions of domestic work and found that even when women work similar hours in paid work to their male partners, they still perform 60.1 per cent of unpaid labour. (Doughney, 2004, p5).

There are countless relationship breakdowns in Australia which have the commonality of domestic work imbalances as a core contributor to the breakdown sending a message that gender relations cannot be discounted within discussions around family choices and options. The gendered division of labor is significant and indeed profitable or expensive, depending on the goals of government.

International solutions to rectify inequality within work and care do focus on workplace measures, as much as government investment in infrastructure like child care and on tax incentives.

In Australia the value of unpaid labour to the Australian economy in November 2002 was said to be \$250-400 billion, or about one-third to half of Australia’s Gross Domestic Product (GDP). (Doughney, 2004, p6)

It is indicative that women account for 64.9 per cent of all unpaid household, voluntary and community work (as against 35.1 per cent for men).

And if earnings are averaged across the total of all women and men who undertake paid and unpaid labour, the ratio women's to men's total earnings effectively falls to 47 per cent! (Doughney, 2004, p6) Hence strong messages resulted in the personal comments made by throughout the 'What Women Want' study, that work and domestic arrangements need to undergo significant change to enable a better work-life balance.

Women wanted specific employment conditions including paid maternity leave, but more extensive demands included:

- women wanting time out of the paid workforce when raising children that does not result in severe loss of work opportunities;
- for 'women's work' to be given legitimacy;
- for parenting, caring work and community work being more valued and the skills gained properly recognised by employers; and
- for men to be able to access more flexible work arrangements so that domestic and care roles *can* be better shared .

It is clear that the domestic arena continues to play a strong part in the resentment women are feeling regarding their work and care arrangements and is sending a message to those listening, (would-be-parents) to think carefully about timing a family. There is much written about relationship breakdown, engaging fathers in caring, reductions in marriage rates and the gendered expectations of parenthood, and they all contribute to the fear or perfectionism surrounding families in Australia. (See work by Michael Bittman, Beth Seddon and Adrienne Burgeous).

### **"Flexible" Employment Modes – Rigid Insecurity**

As stated earlier, employment security, (maintaining a certain and livable income) is fundamental to one's ability to care for a family. However, employment security is also necessary in order to be absent from work for care reasons, should the need arise, without fear of losing one's job. However, the latter is a "flexibility" not afforded to the 2.3 million working Australian's who are employed on a casual basis.

Unfortunately, current employment modes indicate that women's share of casual employment in Australia is 57.3 per cent and that the proportion of women employees working casually is substantially larger than that of men (33.6 per cent compared with 22.8 per cent).

As Sharan Burrow points out, "women need part-time work, due to care responsibilities, but what part time work in Australia means is casual work. More than 80% of women who work as casuals work part time.

"No holidays, no sick leave, and only as a result of the ACTU' Work and Family Test Case have these workers recently achieved the right to take a day or two off, without pay mind you, to care for a sick child without having their employment threatened." (Burrow, 2004)

"While part-time work involves sacrificing rights to family friendly entitlements, parents' choices will be confined and inequity will prevail. The higher proportion of casual and temporary work women perform helps to explain the gap between ratios of female to male adult full time total earnings and total earnings. (Doughney, 2004, p5)

"The 2005 Victorian Government Pay Equity Inquiry showed how a "significant factor influencing divergent rates of pay for men and women arises from the greater concentration of women in part-time and casual employment.

"In 2003, 27.6% of the workforce were casual employees and over 30% of employed women were engaged on a casual basis. Sixty-four per cent of casuals worked on a part-time basis and over 67% of these employees were women. While total wages obviously reflect this disparity, as previously mentioned hourly rates for part-time female employees are lower than those for both full-time women and men." (Whelan et al, 2005, p4)

The AEU believes that policies and working conditions to facilitate work family balance must be equitable and therefore universally accessible to all workers.

## **Recommendations**

3. That, (in supporting previous ACTU recommendations) the Workplace Relations Act be amended to:

- strengthen the role of the AIRC in fostering family friendly working arrangements
  - require the AIRC to ensure that awards and agreements contain effective and innovative provisions to assist workers to combine work and family responsibilities, including provisions relation to hours of work
  - provide for a minimum period of 104 weeks of parental leave
  - ensure that all forms of family leave, (including planned, long term leave) are allowable award matters.
  - ensure discrimination, (direct or indirect) on the basis of family responsibilities is outlawed.
4. That any industrial legislation provide for public scrutiny and monitoring of Australian Workplace Agreements (and equivalent state instruments) to ensure that they are not being used as a mechanism to undermine existing work family balance provisions;  
and,
  5. That measures to increase levels of secure employment, and to discourage precarious casual and short-term appointments, should be encouraged as an important step towards effectively balancing work and family responsibilities.
  6. That measures to address the balance between work and family responsibilities should not reduce or undermine already established entitlements such as sick leave or superannuation, since these provisions have their own work to do, and workers with family responsibilities should not be disadvantaged with respect to workplace entitlements.
  7. The Workplace Relations Act should ensure that the AIRC has clear power to adjust awards to ensure equal pay for work of equal value between women and men.
  8. The equal pay provisions in the Workplace Relations Act should be retained.
  9. That workers have the right to access accrued long service leave in conjunction with any paid maternity/paternity/carers/family leave.

## **Conflicting Ideology**

### **Welfare to Work Agenda and Supporting Working Families**

The AEU joins with other groups critical of the Federal Government's 'Welfare to Work' agenda, as announced in the Budget 2005. In discussing the variety of ways working families are currently finding the balance between work and care largely unsupported by Federal Government initiatives, it must be said that the push to penalise some recipients of income support and force them into the paid work sector, (already uncondusive to their needs), is at best irresponsible and at worst malicious.

Throughout this and other HREOC and parliamentary inquiries into work and family, paid maternity leave and childcare access/affordability, the points have consistently been made that more needs to be done on a national scale to improve the paid work opportunities working parents have in Australia. Without reiterating those arguments here, the Government's messages around making their work and family policies the nation's "barbeque stopper", whilst overseeing an increasingly insecure labour market with rising casualisation, the refusal of a government funded paid maternity leave scheme, opposing minimum wage increases and opposing the bulk of AIRC Work and Family Test Case proposals, expose either their conflicting ideologies or a lack of commitment to ensuring that balance between paid work and family.

Now, those conflicting ideologies are even more obvious, considering the 'Welfare to Work' demands being placed particularly on single parents, parents of children with disabilities and parents with disabilities. The AEU encourages the Inquiry to look more closely at the 'Welfare to Work' area and to consider recommendations already made by groups opposed to the changes, as the requirements do nothing to support and facilitate employment for payment recipients.

Specifically, from July 2006 the age of the youngest qualifying child for the Parenting Payment will be reduced from 16 to 6. This means that parents (both sole parents and partnered parents) who would have been able to claim the Parenting Payment will now need to claim another payment.

The National Foundation for Australian Women has produced an easily understandable briefing paper on the changes which outline how the majority of current Parenting Payment

recipients will have to apply to switch to the Newstart allowance, and hence will be required to look for paid work of at least 15 hours a week. Those remaining on Parenting Payment with a child aged 6 or over will also be required to participate in the workforce for at least 15 hours a week. (Perry, 2005, p1)

The fundamental change is that the Parenting Payment allowed limited financial support for families to choose whether and how much the primary carer would participate in the labour force while they had dependent children. 'Newstart' differs as it is a payment which only provides financial support for people who have no workforce barriers, but who are unemployed. Unfortunately, in Australia dependent children is still certainly a barrier to workforce participation and so whilst this is the situation, forcing parents to find 15 hours of work or face the loss of crucial income support, ignores the reality of the labour market, the disincentives to part-time work and poverty traps built into the current welfare system.

At June 2004, there were 449,312 sole parents receiving PPS and 177,157 partnered parents receiving PPP. The NFAW paper points out how the need for parents to balance work and family responsibility can restrict the hours available for working. It also warns that "if parents need to negotiate family friendly working times or conditions through individual agreements, they may have to trade-off wages or conditions under the Government's proposed industrial relations changes.

"A recent paper by Hughes and Gray, found high levels of unmet need for family friendly working conditions among sole and married mothers, with sole mothers having significantly less access to such conditions, higher unmet need and less power to negotiate changes to working conditions, because on average their jobs tended to be casual and lower status than those of married mothers." (Perry, 2005, p4)

It is evident that employment of sole parents in particular is strongly related to their education levels, and they tend to be lower than those of married parents. It concerns the AEU, that for these vulnerable people in particular, the Government's funding cuts to both the TAFE and university sectors places heavy barriers on their employment opportunities.

The Government's Skilling Australia's Workforce Act imposes the loss of \$1.2 billion in federal TAFE funding - that's the equivalent of around 450,477 students of the total

1.7 million VET students each year who will not be funded – if the states and territories refuse to accept the onerous conditions demanded. Further, the Higher Education Support Act which now forces HECS students to pay up to 25% more for their education, (*or* take on \$50,000 loans to pay upfront for degrees), will make it harder for sole parents to re-train, resume study or aim for employment other than low skilled/low paid/reduced job security.

In a further cruel turn, cuts to the parenting payment do not provide for income to parents caring for children with severe disabilities aged between 6 and 15. In addition, (as the NFAW notes) many parenting payment recipients themselves have disabilities. When access to the Parenting Payment (Single) PPS is reduced, many of these will apply for Disability Support Pension, which is, at the same time restricting access to people with less severe disabilities and requiring 15 hours of work. However no account is being taken of the effects of a combination of moderate disability and parenting responsibility. A person with that combination may be taken as having serious limitations on the hours of work they can be required to undertake. (Perry, 2005, p6)

All up, the ‘Welfare to Work’ policy, as research by the National Centre for Social and Economic Modelling (NATSEM) shows, ensures that people with a disability will effectively be working for \$2.27 an hour and sole parents will be working for \$3.88 an hour. These changes do nothing to accommodate a balance between paid work and care. They punish vulnerable parents and demonstrate the Government has no real interest in supporting working carers.

The ‘Welfare to Work’ policy, makes a mockery of the Federal Government’s claims that they are seriously attempting to support working carers. The policy must be abolished.



## **Recommendations**

10. There are a number of recommendations the National Foundation for Australian Women has put in their briefing paper, “Brief for NFAW on Changes Proposed for Sole Parents by Government’s Welfare to Work Policy.”

The AEU recommends to HREOC that these recommendations be considered by the Inquiry as minor changes HREOC could advocate Government make to alleviate the conflicting tasks imposed on Centrelink recipients who are parents.

## **Families' Decisions and Disincentives**

The AEU believes that the costs of care and maintaining a liveable income *with* the assurance of job security, are the major factors impacting Australian workers and their families' ability to prosper.

The Federal Government regularly argues that its policies facilitate choice, however in the case of work and family balance, the AEU believes Australian families' choices are being confined and that the mechanisms to enable real flexibility for working parents are consistently sidelined.

The recent Taskforce on Care Costs' paper, "Creating Choice: Employment and the Cost of Care" rightly highlights how "anecdotal reports by carers and preliminary academic research indicate that the high cost of care forces workers with caring responsibilities to choose *between* work and caring." (Bourke et al, 2005, p3)

This mismatch between care costs and the diminutive income gained from remaining in the workforce, is exacerbated by in-built disincentives to work in some family tax and welfare payment schemes.

### **Women Have Chosen - They Just Can't Access Their Choices**

The AEU believes government policy must facilitate real choices for working families that enable a family income to be maximised, as well as enable the caring needs of families to be met, both within quality formal and informal care sectors.

The AEU supports the broad arguments put in Leslie Cannold's submission to the House of Representatives' 2005 "Balancing Work and Family' Inquiry, as she aptly condemns society's generally narrow construction of choices, particularly for women. Cannold emphasises how such choices become simply opting for that which is the least painful.

In many cases for women, the least painful is giving up on the struggle between working only to meet the costs of care, and staying at home. Cannold shows how strongly linked to class these choices are.

This view is supported by Barbara Pocock's and Anne Summers' positions. Pocock explains "the 'choice' to stay at home to care for kids is undermined if the long-term price is the loss of a labour-market foothold. The choice to return to work is non-existent if practical child-care options don't underpin it."

The AEU believes that Australian economy, no matter the conservative ideological preference to do so, cannot sustain the inequities of women's limited choices. In most cases, the preferred options Australians would like to choose are self evident and are often low cost or no cost. The AEU recommends that this Inquiry listen to the much repeated requests of Australian carers – namely women.

There are clearly articulated financial, career and social disincentives to starting families in Australia. Women have been telling governments for decades that the work family balance is inadequate in their lives and redressing this inadequacy has long been a key demand for government action, as shown throughout election polling.

The findings of a study by the Security 4 Women consortium in May 2004 into "What Women Want", clearly confirmed women's understanding of their needs and inequality. The top three priorities of Australian women, irrespective of age, education and socioeconomic status, were consistently reported as 'work arrangements that help balance family and other responsibilities', 'affordable education and training for all ages' and 'equality of male and female wages and salaries'. (Doughney, 2004, p2)

Australian women's demands for quality, affordable and accessible child (and elderly) care is yet to be adequately addressed.

Australian women's demands for flexible, yet secure, employment modes have been wrongly interpreted as a preference for part-time (and therefore usually casual/precarious) employment. Australian women's demands for a nationally funded paid maternity scheme remains unfulfilled and an international embarrassment. It is only now that women are sending the message through refusal to procreate that the issues are being taken seriously.

Women understand that a family increases their work and reduces their pay. Governments now need to understand this also.

Financially, be it the loss of professional aspirations or secure income, ongoing costs of care, of education and health costs, and of housing these are real, highly publicised stumbling blocks for women's fertility choices, and balancing family.

## Families' Costs – Cost to Families

Much has been written recently that canvasses the cost of care, (particularly childcare) and the “welfare traps” that clearly act as a disincentive to working parents and even decisions to start a family. The current Family Tax benefit systems, the old Baby Bonus, the new Maternity Payment, the Childcare Rebate have been extensively analysed by political parties, journalists and academics.

The AEU would like to direct HREOC to both ACOSS's 2004 policy paper, “Better Family Incomes Package”, and the Taskforce on Care's 2005 report, “Creating Choice: Employment and the Cost of Caring”, for a more concise articulation of these costs and poverty traps for families.

Needless to say, the AEU supports the view put by the Taskforce on Care, that “workers are exposed to high care costs (for children, elders and people with a disability), and currently receive minimal financial support”. (Bourke, et al 2005, p47) The report strongly demonstrates the risk for business and the Australian economy by showing the direct relationship between the cost of care and workforce participation.

Cited research conducted by the National Centre for Social and Economic Modelling (NATSEM) “concluded that the interaction between childcare costs, income and government tax and benefit structures can limit the benefit of increasing workforce participation, particularly for low income earners.” (Bourke, et al 2005, p4)

Strikingly, 73.1% of workers who cared for children under school age said they have either considered leaving, or WILL leave the workforce *because of the cost of care*.

Specifically, it was found that the average actual weekly cost (i.e. including full-time and part time usage) for elder care (\$162 per week) or disability care (\$118 per week) was similar to or more than that paid for by respondents paying for childcare (\$117 per week).

Research by Carers Australia showed that other carers paying for care had similar issues to people paying for childcare in terms of affordability and availability of care, and its impact on their workforce participation decisions. (Bourke, et al 2005, p5)

The AEU is particularly concerned about these facts, considering the age demographic of the education sector and the current teacher shortage, as the majority of our members aged about 45 are increasingly looking after elderly parents or relatives, whilst at the same time often looking after grandchildren, when their children working in other sectors are unable to negotiate adequate flexible work options. Meanwhile, unless the education sector is able to accommodate the needs of younger beginning teachers, and retain them in the education industry, the teacher shortage will be exacerbated.

However, the AEU would like to highlight other costs which contribute to the financial disincentives to starting or maintaining families. On top of tax and welfare restrictions, this generation of would-be parents are those whom are starting their adult lives already burdened with a HECS debt and higher housing costs than any generation before them, (whether buying or renting).

Factors such as the cost and availability of housing, the cost and availability of childcare places, and the financial uncertainties associated with casual or insecure forms of employment affect all young people, making it difficult to achieve sufficient financial security to plan to start a family.

AEU members report an additional problem which compounds these difficulties, and that is the impact of HECS debts, particularly in the first decade of employment. The vast majority of workers entering the public education industry, including all teachers, are university graduates.

A typical scenario for AEU members is:

*A couple in their mid-twenties wish to start a family, but:*

- *both are university graduates with four or five years of study.*
- *both have recently commenced teaching, on short-term contracts. One is full time and the other works three days a week.*
- *their income is sufficient to trigger HECS debt repayments, reducing their effective income by \$150 a fortnight.*
- *they have recently bought a house, with substantial mortgage repayments.*

*Combined with the knowledge that they would incur the usual expense of raising a child, the cost of childcare and the difficulty of locating a childcare place within a reasonable distance from their home, the prospect of incurring the ongoing expense of starting a family is prohibitive.*

The compounding effect of HECS debt repayments on top of all the other expenses which people encounter at the same time in their lives, is leading many young teachers to defer starting a family – sometimes indefinitely.

More broadly, the cost of education concerns the AEU as it also acts as a disincentive to lifelong learning. Pursuing an economic rationalist agenda, with respect to user pays education (and health for that matter) financing ignores the benefits that accrue to society as a whole. Recent HECS reforms now ask students to take on even higher debt or pay for an up front university place of \$100,000, despite their taxes already supposedly funding universities and schools.

Recent reports of declining university enrollments, increasing drift to private schooling, Australian's personal debt, paranoia over interest rates and falling fertility rates, appear to confirm the prediction of debt aversion, in the wake of the Federal Government's policy shifts to increase the private cost of fundamental services.

The National Union of Students cites Professor Chapman (the architect of HECS) who estimated that “one in ten Australian students will be paying full fees as high as \$210,000 by 2008 and that unless you've got rich and generous parents you are in trouble”. (Jansen, 1/09/2004)

Similarly, Culmsee, (2004, p4) acknowledges that although students can defer the payment of their HECS debt until their income reaches \$36,000 many were still worried about getting into debt at an early age.

Housing costs remain a financial determinant in the decision to have children also, because children necessarily increase required housing capacity and therefore cost, whether buying or renting.

A *Sydney Morning Herald* article by Hannah Edwards in 2002 confirms what young people have been saying to their parents for a time now, that it is in fact harder to buy a house today than it was then.

Edwards’ report, (09/06/2002) says you need more than twice as many weekly pay packets to buy a home in Sydney today than you needed 40 years ago. Today it takes 550 weeks' pay for your suburban dream – up from 249 pay packets in 1962.

And Lisa Pryor, this year also acknowledged that home ownership is a huge contributor to the raging debate between baby boomer parents and their adult offspring. Pryor’s article (13/07/2004) puts the median house price now “as equal to nine times the average per capita income, compared with six times the average income before the market took off in the mid-1990s, the Productivity Commission found.”

Starting out with a debt, and perhaps deferring repayments by accepting a job on minimal pay, many young people then face the “enticing choice” of seeing what little income is left disappearing on the material costs of children. Small wonder that many see no choice at all.

The added traps of Australian workers' reduced job security (via increased casualisation/precarious part-time employment), and of employer flexibility will be discussed in the next two chapters that deal with how gendered labour markets, (that hence produce pay inequities) and the changing nature of part-time employment impacts families lives and income.

## **Recommendations**

11. That arguing for reducing the cost and increasing the availability of quality childcare places be an urgent priority for HREOC's dealings with the Federal Government.

12. That the HREOC support ACTU calls for the Federal Government to:

- (a) undertake a comprehensive analysis of child care needs areas;
- (b) develop a national, integrated approach to planning and delivery of early childhood education and care;
- (c) recognise the importance of early years learning, development and the successful transition to school;
- (d) address the shortage of child care places and improve ongoing access to services for all families;
- (e) ensure that all Australian children have access to at least one year of free pre-school education prior to going to school;
- (f) better integrate child care and related services ;
- (g) increase the affordability of child care services for all families;
- (h) commit to fund improved wages and conditions for childcare staff; and
- (i) ensure the provision of high quality services.

And that the Government should implement funding programmes to increase places for children aged 0-2 group.

13. That the HREOC request Government commitment to funding programmes to support the development of new Long Day Care centres in areas with un-met demand.



14. That HREOC request Government undertake an analysis of the varying capacities of communities to develop and sustain quality early childhood services and commit to funding programmes for the development of services in areas of particular economic and social disadvantage.
15. That HREOC request Government provide increased government funding levels to accommodate improved wages and conditions for childcare professionals and a commitment to provide incentive funding tied to improved staff wages, qualified staff ratios and services.
16. That in conjunction to focusing on formal childcare, access to quality, and equitable preschool education is imperative. Therefore the AEU recommends:
  - (a) A national plan for preschool education be developed between the Commonwealth and states and territories to ensure equity and access to high quality preschool;
  - (b) That a national framework and vision for preschool education is coordinated through MCEETYA and DEST.
  - (c) That the provision of high quality and accessible preschool education in the year before commencing school is free for all children across Australia and is acknowledged at a federal level as a universal right;
  - (d) The Commonwealth reintroduce dedicated funding for preschool education and that Commonwealth and state and territory governments jointly provide the full costs of preschool education.
  - (e) That Commonwealth and state and territory governments provide additional funds dedicated to improving access for Indigenous children to high quality preschool education;
  - (f) Current initiatives that link health, education and community programs be increased and expanded. Higher levels of coordination between services should be established between government and non-government organisations in direct consultation with Indigenous communities;

17. That the Federal Government accept the ‘Taskforce on Care Costs’ recommendation requesting that by 30 June 2006, the Government release a public report identifying the steps it has taken to implement the Taskforce’s recommendations.

18. That HREOC request that there be more flexibility in HECS debt repayments during periods of high costs to families, eg. childbirth; home buying; starting school.

## **Education Workers Realities**

For AEU members, workload and work intensification continue to be a significant barrier to their work and family balance. Though the education sector has a reputation for being family friendly, due to school hours and holiday periods, the reality for education workers is much the same as other working Australians. Excessive hours, unpaid overtime, sacrificing health and wellbeing and the gap between policy and practice, (particularly in part-time work) are definitely to the detriment of AEU members’ families.

Work intensification, as documented here, also acts as a disincentive to return to work after children, and to applying for promotions, which often sees women ‘opting’ out of promotions positions.

The AEU has many members employed in professional, salaried work, without fixed hours of work. In this work context, it can be difficult to measure and track changes in working hours, and in work intensification during the hours worked. Nevertheless, all studies of teacher workload conducted in the past decade have shown a steady increase in both working hours and work intensification.

Increased workload has a direct and detrimental impact on AEU members’ work/family balance. Members report:

- the need to take work home reduces time available to their families;
- ordinary working days are stretching, with teachers regularly not leaving school until after 6pm;

- marking, planning and preparation work, as well as professional development activities, takes up much of every school holiday period;
- scheduling of meetings, professional development, and extra-curricular activities on evenings and weekends is common;
- the highly stressful nature of their working day means they come home too tired and grumpy to give their own children the patient attention they give the children in their classrooms;
- they bring their own children along to weekend activities (eg supervising sport) because otherwise they have no time with them at all.

Our members report stress, exhaustion and guilt arising from their inability to balance the demands of work and family, and both their work performance and their family relationships suffer. One academic study of teacher work/family balance went so far as to recommend that teachers should be discouraged from marrying other teachers, because no single family unit could reasonably be expected to sustain the working hours of a teacher unless the other partner had an occupation where they have fixed hours and could leave work at work.

But education workers do not only suffer the effects of their own excessive workloads. Work intensification and the spread of longer working hours in other industries, without adequate support for work /family balance, shifts some “family” responsibilities onto workers in industries such as health and education.

The AEU’s members report that a variety of factors resulting from longer hours worked by parents of school students are in turn increasing the workload and working hours of education workers. These include:

- students arriving at school earlier and leaving later, requiring longer periods of supervision;
- inadequate provision of out-of-school-hours care;
- an increase in the incidence of students coming to school sick, because their parents (especially if casually employed) have no access to family/carer’s leave;
- many students have no effective parental supervision of homework; and

- problems faced by students' families arising from stress, working hours, job insecurity, etc, are often "brought to school" – in forms as diverse as comforting distressed children after a family argument, providing breakfast to children who do not receive breakfast at home, and monitoring parental access under Family Court custody orders.

Many teachers leave the profession as a result of the inability to strike any sustainable balance between work and family, and many young people are discouraged from entering the teaching profession when they see how overworked their own teachers are.

Barbara Pocock's much documented book "Work Life Collision" and in particular her work for the ACTU, (2001) which discussed Fifty Families' pressures, due to work intensification holds many truths for AEU members. Pocock's research into teaching, showed how workload impacts quality of teaching, it affects personal well being, affect of part-time work, how society benefits from well meaning teachers, but how this affects teachers' own children, and extended family. Pocock's interviews with teachers, (available on the ACTU website <http://www.actu.asn.au/public/papers/fiftyfamilies/fiftyfamilies.doc>) discuss in detail the particular pressures on education workers' families.

### **Part-time employment – policy gap and carers' trap**

Making it easier for parents who wish to return to the paid workforce, usually involves some type of reduced hours, whether on a temporary or ongoing basis. Though for many families part-time work may indeed be the solution to their work and family needs, the experience of AEU members is that part-time work poses its own disincentives to remaining in paid work.

As discussed earlier, for many, particularly women, part-time work means casual work and hence the loss of crucial entitlements such as sick leave, maternity leave, parental leave etc. With the increase in casual employment in the TAFE sector, AEU members who are casually employed do struggle to balance family needs.

The AEU believes that part-time employment needs to offer the same employment security as full-time, in terms of leave conditions, of salary parity and of social acceptance of family responsibilities.

Unfortunately, the AEU has found that within the public education sector, there is a gap between policy and practise where part-time work is concerned, (and indeed where the full range of family friendly entitlements are concerned). The union works hard to ensure that where hard fought for entitlements are desired by our members, that these be implemented as indented.

The issues part-time workers have in education, are probably very similar to many other industries. Though part-time employees in different sectors within public education, have very different experiences of part-time work, essentially AEU members who work part-time have difficulties:

- with earning sufficient income due to differences in the hourly rate for part-time employees compared to full-time employees (this is more acutely felt in some sectors, like TAFE)
- with having fewer training opportunities than their full-time colleagues
- of being able to work at their full potential, due to time constrictions, (between one third and a half of women working part-time are working below their full potential)
- with having a restricted ability to self regulate their hours, which impact their ability to arrange regular care, (e.g. appropriate ongoing child care times)
- with principals, or members in promoted positions, negotiating part-time arrangements
- not being given the same treatment as full-time workers
- with the stigma attached to part-time employees about job commitment but be challenged
- the reluctance to facilitate job share, particularly in promotions positions
- in successfully applying for and achieving promotional opportunities, due to their part-time status

## Educators' Entitlements

In all public education workers have a range of flexible work options and family friendly provisions, which vary according to sector and employment status, but nonetheless include:

- the right to temporarily adjust hours and/or flexible start and finish times
- the right to move between part-time and full-time employment
- lactation breaks, including workplace policies on breastfeeding
- leave options that acknowledge the diversity of family structures and friendships (including maternity leave, paternity leave, parenting leave, adoption leave, foster parental leave, cultural/ceremonial leave)
- paid maternity leave that ranges from six weeks full pay, plus six weeks half pay to 14 weeks full paid leave
- sick leave
- carers' leave
- job share arrangements
- class size maximums to attempt to reduce workload
- job share opportunities even in promoted positions
- culture change that encourages flexibilities not to the detriment of career progression or job loss/security

The AEU has extensive policy on workers rights to high quality, accessible, appropriate and affordable, if not free, child care; on maternity and parenting/family leave; permanent part-time work options; equitable superannuation schemes and equal pay/pay equity. These policies are available should HREOC wish to view them in detail.

In addition, there is ample information to support the entitlements that AEU members regularly claim through enterprise bargaining. Aside from paid leave, many entitlements are low cost or no cost and as such the AEU draws these to the attention of Inquiry. The range of family friendly policies, show the varied and ongoing care needs which should be seriously considered by government and employers.

### **Maternity Leave and Adoption Leave**

The World Health Organisation states that it is of utmost importance to the health of the mother and the infant, that the a period of absence from work following birth should be at least 16 weeks.

Sixteen weeks is conducive to both the optimal growth of the infant and the bonding between mother and infant. Absence from work also allows the mother to recover physically and emotionally.

The World Health Organisation specifically identified this period from work as minimising maternal health problems such as infections, anaemia, depression, backache, anxiety and extreme tiredness.

In terms of infant health, there were a range of benefits for the child including being able to be exclusively breastfed, for which anything less than 16 weeks was identified as being of multiple detriments to their health.

There are also a range of international and national studies which support a strong link between substantial paid maternity leave arrangements and high recruitment and retention rates, both issues of central relevance to these industries.

The claim for 16 weeks paid maternity and/or adoption leave reflects the AEU National Claim Framework, from December 2002.

### **Prenatal leave**

It is well established that pregnancy is not an illness. Therefore women should not have to access their sick leave entitlements to attend prenatal appointments. This should be provided under special leave provisions.

Equally, the role of the father in the parenting role needs to be given some acknowledgement. The opportunity to attend key appointments, such as ultrasounds should be provided.

These leave provisions reflect those of the Victorian Government Schools – School Services Officers Agreement 2001.

### **Miscarriage, Stillbirth, Termination and Neonatal Death**

Some special leave arrangements do account for miscarriages. However, similar distress and trauma can also be associated with stillbirth, termination and neonatal death.

Throughout any period of planned or unplanned pregnancy the prospect of losing a pregnancy is always a possibility. Complications prior to the birth of a child which lead to neonatal death, still birth, miscarriages or terminations need to be taken into consideration.

### **Personal Leave**

Such leave provides a much needed increase in flexibility arrangements which support managing work and family responsibilities.

Personal leave provides a formalised framework for managers to assist their staff in managing their work and family responsibilities in a way in which is currently done informally.

Based on the ACT model, (DECS (Teaching Service) Certified Agreement 2000 - 2003), they have found it to be both cost effective and supportive of employees better managing their work-family responsibilities.

### **Partner Leave**

Partner Leave acknowledges that families are constituted in diverse ways and that carer roles should not be assumed, but should instead be supported. Discrimination in partners wishing to access paid time off at the birth of their child should be rectified by offering and actively encouraging partner leave. Partner Leave with regard to adoption should be treated the same.

It is well acknowledged within the research that time is required for the bonding between parent and child. This is currently available to mothers, but not partners. With the changing nature of the workforce, a failure to provide bonding opportunities to both parents is outdated.

An example of parenting leave, (though strictly paternity leave in this case) is the Victorian "Teachers' (Vic Govt Schools) Conditions of Employment Award 2001". Victoria allows for male teachers who submit satisfactory evidence that he is the father of, or has accepted responsibility for the care of a child, shall be granted paid leave for up to one week or for periods aggregating up to five working days, to care for such child and/or mother of the child.



### **Flexible Work Options**

FWO policies or statements in agreements asks parties to acknowledge that flexible work practices, including part time employment, are employment arrangements that aim to achieve the best possible match between the interests of the worksite and the personal/professional interests of individual employees. Such statements are located in most teaching agreements across Australia or within education departments' or public sector acts.

An important part of offering flexible work options is to ensure that time fractions for part-time staff do not still require unreasonable attendance days, as this impedes the ability to arrange regular care, (e.g. appropriate ongoing child care times).

Including, "Minimum Required Days", that for example stipulate fractional staff of 0.6 or less cannot be required to work more than four days a week, or fractional staff of 0.4 or less cannot be required to work more than three days a week, can be valuable inclusions to work family policies.

Finally, the AEU reiterates its support for the flexible work options which had been pursued by the Australia Council of Trade Unions (ACTU) within the Australian Industrial Relations Commission Test Case on Work and Family and believes that the Federal Government's opposition to these claims indicates a somewhat hypocritical approach to employee flexibility. During the 2004 Federal Election, the Liberal Party policy for women stated that on flexible workplaces they were "committed to maintaining a flexible workplace relations system that provides choices for working parents." The policy committed to "maintaining a strong emphasis on equal opportunity for women in the workplace and promoting these principles in the private and public sectors" yet they have opposed the test case requests from employees and are instead attempting to dismantle the entire IR system.

The AEU is disappointed by this demonstration of inconsistency, however maintains that the necessity for the Government to facilitate a culture shift in Australian workplaces, is great enough to ensure the recommendations arising from this Inquiry be respected and enacted.

## Recommendations

19. That the Australian Federal Government immediately abolish the Maternity Payment and implement a national paid maternity leave scheme based upon the ILO Maternity Convention 183 and Recommendation 191.

This would provide all employed Australian women, (no matter what occupation or type of undertaking, including those women employed in atypical forms of dependent work who often received no protection), with 14 weeks paid maternity leave.

20. HREOC must demand that the Federal Government should play a greater leadership role in encouraging workplaces to introduce family friendly cultures, by providing information to employers including:

- Considering work family balance when making management decisions;
- Making meetings family friendly by:
  - considering childcare arrangements both on and off site;
  - having set ending times;
  - prioritizing items;
  - limiting time people can speak so you finish on time.
- Introducing a workplace policy for breastfeeding
- Discouraging staff from working excessive unpaid overtime; particularly on weekends and staying back after work
- Encouraging fathers in particular to take advantage of paternity and carers leave entitlements where they are offered, to ensure the family caring roles are shared equally
- Allowing staff to have access to a telephone and let them have mobile phones for emergency family reasons
- Advising how to introduce flexible start and finish times
- Advising how to introduce a keep in touch plan for employees on maternity or carer's leave.

21. Provisions for parental leave should include allocation of time and funds for appropriate training on return to work after parental leave, to re-orient workers to the workplace and to technical, professional and organisational changes which may have occurred during their period of parental leave, to ensure that the break in service does not impact negatively on career development.
  
22. Measures to reduce normal working hours for all workers should be encouraged as an important step towards effectively balancing work and family responsibilities.

## Culture Change

It is clear that one crucial aspect of the approach this Inquiry is taking to the issue of work balancing paid work and family, is that culture change is required, at policy, workplace and personal levels. The AEU agrees with this needed change in attitudes and for some time has been committed to addressing the stereotypes and traditional roles assigned to men and women, which reduce rather than enhance opportunities and choices.

These changes go to employers' and employees' attitudes to the value of caring, to divisions of unpaid labour in the domestic arena, to publicly accepted notions of 'families' which encompass the diversity that exists in Australia and even to notions of acceptable work choices for men and women, which affect the income levels of families.

## Policy in Practice

The AEU has raised the issue of the gap between policy and practice in the public education sector, and there is no doubt similar barriers in other sectors whereby collective agreements or managerial policies may well stipulate a commitment to work/family balance and include specific entitlements but when employees attempt to take advantage of them, they are given the message of inconvenience or flatly refused.

Over the years, the business case for flexible work options has been successfully put and a growing majority of employers and organisations acknowledge this. Therefore, the task is moving from the commitment on paper, to successful implementation of policies in reality.

Such things as:

- promoting the idea that employees' careers be penalised for reducing their hours to care for a family member;
- sending the clear message that men *should* share the unpaid labour;
- tackling the long hours culture in Australia which rewards *time served* rather than actual outcomes;
- trialling new flexible working arrangements when employees request them, before dismissing them as too difficult; and
- properly analysing the international experience of business and their increased productivity.

The AEU was represented during the ACTU Work and Family Test Case by many members acting as witnesses to the case who told their stories of attempting to balance their work and care responsibilities. Their witness statements provide a snapshot of the diverse cultures operating (mainly) in schools, and of the array of entitlements being utilised for a range of care needs.

A further example of the approach taken by one Queensland public school principal shows the importance of leadership and supportive cultures, (which is indicative of systems whole), in achieving truly family friendly environments. The particular position taken is more that work is part of our lives, but it should not be all of it.

Coming from the perspective of a female Principal who accessed parental leave and part-time arrangements, contributes to the belief in the workplace that work has to fit with our lives if work can be given fullest attention. The school believes women ought to be able to step out of the workforce to have families, to return at a fraction that will work for them and to take a lesser role in the larger scale stuff until they are ready, and this should be as true for women in administrative and leadership roles as it is for teachers, and for males if they choose to make these decisions as well.

The Principal says:

*“We do a lot of fractional return to work placements for individuals following family leave. One of our most interesting at the moment is two parents (both teachers) who share a full time position. The 'dad' is currently working full time as his wife is on leave having just had their third child. When she is ready to return to work part-time he will reduce his load accordingly i.e. one of them is home with their babies whilst the other is here at work.*

*It is also important to realise that making these accommodations actually provides enhanced opportunities for others. One of our deputy principals is a young mum. She has taken a year's family leave twice now for the births of her two children and also returned to work each time in a part-time role. Whilst she has been on leave it has been possible to 'split' her position to provide opportunities for others to act in the role and whilst she is part time this continues. When she returned this time she was .4 – two days per week. Three other women then acted as deputy principal one day a week each. This gave them an opportunity to a) see if this was a job they would actually like to have b) lead a project of importance and c) increased the level of understanding of teachers as to what principals and deputies do – powerful stuff.*

*I think that doing all of these things has enhanced our practice enormously. There is a much greater sense of team with all of us working together to make our school the kind of place that we all want it to be. I think there is a real 'pay off'; for organisations when they are seen to be flexible in order to assist people remain in their careers – it enhances commitment.”*

There needs to be more commitment to fostering workplace cultures which view options like the above as the norm, rather than the exception. Though the AEU has grave concerns that the only employers able to secure such commitments in the future workplace environment are those least likely to be in desperate need of them – like low paid, casual employees and sole parents.

## Addressing Traditional Gender Roles Through Education Systems

Given the importance of shifting attitudes around care and work practises, the AEU raises its concerns regarding attempts to reduce teachers' ability to address traditional gender roles and gender construction in school curriculum, where they are instead having curriculum policies impose which re-enforce/re-establish traditional gender roles.

The AEU has always been concerned about the Federal Government's recent approach to gender in schools. It appears that the recent Boys' Education Lighthouse Schools (BELS) initiative and now the current Success for Boys professional learning program for teachers have at their heart, a rejection of the previous approach taken in schools which addressed gender as a social construction rather than being biologically determined. That is, teachers were aware that society prescribes roles for men and women based on value judgements and behaviour is therefore learned, rather than behaviour being innate or uncontrollable and somehow brought about along sex lines.

The AEU's recommended approach to education systems, as stated in our Gender Equity (2003) policy, recognises:

- the gendered nature of paid and unpaid work;
- power and economic imbalances which exist between women and men;
- different relationships of power and privilege in our society;

- that some constructions of gender may result in destructive and oppressive forms of masculinity impacting negatively on both girls and boys, young women and men;
- that some constructions of femininity impact negatively on both girls and boys, young women and men;
- that girls and women continue to be seriously disadvantaged compared to boys and men in employment and training;
- sexuality as a Gender Equity issue.

The AEU believes that changing the culture of education systems and settings is fundamental to the achievement of Gender Equity. The culture of education systems, education organisations and their management structures and practices transmit strong messages about the value placed on participation of girls and women, boys and men in the education system and the wider society.

The AEU believes that educators' knowledge and understanding of Gender Equity are critical to bringing about this culture of change. However, through the comments of the Federal Education Minister, Brendan Nelson, and the narrow focus of Federal programs only for boys, the AEU believes there is an emerging view that shifting traditional gender roles and deconstructing gender to bring about culture change, is not desirable. This is evidenced by the fact that the Ministerial Council for Education Employment and Youth Affairs (MCEETYA) Gender Equity Framework is currently being reviewed “so that boys and girls are able to find and achieve their own potential in an educational context which takes into account their differences” (Aust. Govt. 2003) – i.e. to remove the commonality from the approach and to instead exploit the traditional gender roles that lead to inequity.

It *is* important to understand the relationships between men and women, of the power dynamics and the constraints placed on individual expression when gender is narrowly prescribed. The AEU has always rejected the ‘competing victims mentality’ and wishes education systems are able to continue to foster cultures of shared care and equitable opportunities for men and women.

## **Conclusion and Recommendations**

There are financial, career and social disincentives to starting families in Australia that centre around the costs of education, health, housing, and care, as well as gender role stereotypes, pay inequity and the discrimination of carers in the workplace.

The Federal Government and employers have opportunities to take up policies that do make it easier for parents wishing to return to the paid workforce. However, to date the take up of these options has been slow and even obstructionist. The AEU fully supported the ACTU's contentions and claims within the AIRC Work and Family Test Case which aimed to ensure flexible work and leave entitlements were accessible for all working Australians, but the opportunity was lost as the Federal Government and hence the AIRC inevitably declined to support.

The public education sector can in many cases be used as a model for the implementation of some flexible work options and entitlements however, the AEU cautions the Inquiry to ensure that entitlements are universally accessible, are facilitated in reality as well as by policies and that part-time work options have inbuilt job security, parity in pay and career prospects and allow predictability of hours.

The AEU believes that if policy makers are serious about addressing the tax and financial traps for working families and carers, then the welfare and tax systems need a total review and overhaul, particularly the 'Welfare to Work' policy. Forcing parents into work without infrastructure to allow them do so, without financial penalty, is unacceptable and unsustainable.

We, therefore, make the following recommendations:



1. That HREOC leave open the opportunity for further submissions to this inquiry, following the release of the Federal Government's new Industrial Relations laws.
2. That HREOC and other Government departments/agencies should publicly monitor the loss of family friendly working conditions (through AWAs, and minimum conditions) following the passing of new Federal Industrial Relations laws, and to also monitor the new laws' compliance (or otherwise) with ILO conventions.
3. That, (in supporting previous ACTU recommendations) the Workplace Relations Act be amended to:
  - strengthen the role of the AIRC in fostering family friendly working arrangements
  - require the AIRC to ensure that awards and agreements contain effective and innovative provisions to assist workers to combine work and family responsibilities, including provisions relation to hours of work
  - provide for a minimum period of 104 weeks of parental leave
  - ensure that all forms of family leave, (including planned, long term leave) are allowable award matters.
  - ensure discrimination, (direct or indirect) on the basis of family responsibilities is outlawed.
4. That any industrial legislation provide for public scrutiny and monitoring of Australian Workplace Agreements (and equivalent state instruments) to ensure that they are not being used as a mechanism to undermine existing work family balance provisions; and
5. That measures to increase levels of secure employment, and to discourage precarious casual and short-term appointments, should be encouraged as an important step towards effectively balancing work and family responsibilities.

6. That measures to address the balance between work and family responsibilities should not reduce or undermine already established entitlements such as sick leave or superannuation, since these provisions have their own work to do, and workers with family responsibilities should not be disadvantaged with respect to workplace entitlements.
7. The Workplace Relations Act should ensure that the AIRC has clear power to adjust awards to ensure equal pay for work of equal value between women and men.
8. The equal pay provisions in the Workplace Relations Act should be retained.
9. That workers have the right to access accrued long service leave in conjunction with any paid maternity/paternity/carers/family leave;
10. There are a number of recommendations the National Foundation for Australian Women has put in their briefing paper, "Brief for NFAW on Changes Proposed for Sole Parents by Government's Welfare to Work Policy."

The AEU recommends to HREOC that these recommendations be considered by the Inquiry as minor changes HREOC could advocate Government make to alleviate the conflicting tasks imposed on Centrelink recipients who are parents.

11. That arguing for reducing the cost and increasing the availability of quality childcare places, be an urgent priority for HREOC's dealings with the Federal Government.
12. That the HREOC support ACTU calls for the Federal Government to:
  - (a) undertake a comprehensive analysis of child care needs areas;
  - (b) develop a national, integrated approach to planning and delivery of early childhood education and care;
  - (c) recognise the importance of early years learning, development and the successful transition to school;
  - (d) address the shortage of child care places and improve ongoing access to services for all families;

- (e) ensure that all Australian children have access to at least one year of free pre-school education prior to going to school;
- (f) better integrate child care and related services ;
- (g) increase the affordability of child care services for all families;
- (h) commit to fund improved wages and conditions for childcare staff; and
- (i) ensure the provision of high quality services.

And that the Government should implement funding programmes to increase places for children aged 0-2 group.

13. That the HREOC request Government commitment to funding programmes to support the development of new Long Day Care centres in areas with un-met demand.
14. That HREOC request Government undertake an analysis of the varying capacities of communities to develop and sustain quality early childhood services and commit to funding programmes for the development of services in areas of particular economic and social disadvantage.
15. That HREOC request Government provide increased government funding levels to accommodate improved wages and conditions for childcare professionals and a commitment to provide incentive funding tied to improved staff wages, qualified staff ratios and services.
16. That in conjunction to focusing on formal childcare, access to quality, and equitable preschool education is imperative. Therefore the AEU recommends:
  - A national plan for preschool education be developed between the Commonwealth and states and territories to ensure equity and access to high quality preschool;
  - That a national framework and vision for preschool education is coordinated through MCEETYA and DEST.
  - That the provision of high quality and accessible preschool education in the year before commencing school is free for all children across Australia and is acknowledged at a federal level as a universal right;

- The Commonwealth reintroduce dedicated funding for preschool education and that Commonwealth and state and territory governments jointly provide the full costs of preschool education.
  - That Commonwealth and state and territory governments provide additional funds dedicated to improving access for Indigenous children to high quality preschool education;
  - Current initiatives that link health, education and community programs be increased and expanded. Higher levels of coordination between services should be established between government and non-government organisations in direct consultation with Indigenous communities;
17. That the Federal Government accept the ‘Taskforce on Care Costs’ recommendation requesting that by 30 June 2006, the Government release a public report identifying the steps it has taken to implement the Taskforce’s recommendations.
18. That HREOC request that there be more flexibility in HECS debt repayments during periods of high costs to families, eg. childbirth; home buying; starting school.
19. That the Australian Federal Government immediately abolish the Maternity Payment and implement a national paid maternity leave scheme based upon the ILO Maternity Convention 183 and Recommendation 191.

This would provide all employed Australian women, (no matter what occupation or type of undertaking, including those women employed in atypical forms of dependent work who often received no protection), with 14 weeks paid maternity leave.

20. HREOC must demand that the Federal Government should play a greater leadership role in encouraging workplaces to introduce family friendly cultures, by providing information to employers including:

- considering work family balance when making management decisions;
- Making meetings family friendly by:
  - considering childcare arrangements both on and off site;
  - having set ending times;
  - prioritizing items;
  - limiting time people can speak so you finish on time.
- Introducing a workplace policy for breastfeeding;
- Discouraging staff from working excessive unpaid overtime; particularly on weekends and staying back after work;
- Encouraging fathers in particular to take advantage of paternity and carers leave entitlements where they are offered, to ensure the family caring roles are shared equally.
- Allowing staff to have access to a telephone and let them have mobile phones for emergency family reasons;
- Advising on how to introduce flexible start and finish times;
- Advising on how to introduce a keep in touch plan for employees on maternity or carer's leave.

21. Provisions for parental leave should include allocation of time and funds for appropriate training on return to work after parental leave, to reorient workers to the workplace and to technical, professional and organisational changes which may have occurred during their period of parental leave, to ensure that the break in service does not impact negatively on career development.

22. Measures to reduce normal working hours for all workers should be encouraged as an important step towards effectively balancing work and family responsibilities.

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